

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
CRIMINAL NO. 24-63 (DSD/JFD)

United States of America,

Plaintiff,

v.

**ORDER**

Charles Winston, Jr.,

Defendant.

This matter is before the court upon the objection by defendant Charles Winston, Jr. to the September 4, 2024, report and recommendation of Magistrate Judge John F. Docherty (R&R). In his report, the magistrate judge recommends denying Winston's motion to suppress evidence and statements. Winston timely objected to the R&R.

The facts underlying this matter are not in dispute and will not be repeated here. The narrow issue presented is whether the magistrate judge correctly determined that the arresting officer did not unlawfully prolong Winston's legitimate traffic stop. The record shows that the officer prolonged the stop after observing what he believed to be smoked marijuana roaches in Winston's car. The magistrate judge determined that under United States v. Booker, 269 F.3d 930, 931 (8th Cir. 2001), the officer had probable cause to prolong the stop and search Winston's vehicle based on his

observation of what he believed were marijuana roaches in plain view. R&R at 6.

The court has reviewed the R&R de novo, 28 U.S.C. § 636(b)(1)(C); Fed. R. Crim. P. 59(b); D. Minn. LR 72.2(b), and finds that the magistrate judge was correct in its analysis and determination.

Winston argues that because the perceived marijuana roaches closely resembled what could have been cigar butts containing nicotine, there was no probable cause. But, as the magistrate judge noted, Winston's interaction with the officer seemed to confirm the officer's belief that the items contained marijuana. Indeed, Winston did nothing to dispel the officer's belief that the items were marijuana roaches when the issue was raised and discussed during the stop. See ECF No. 38, at 5. Under these circumstances, probable cause existed for the extended stop and search. As a result, the court overrules Winston's objection to the R&R.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The R&R [ECF No. 39] is adopted in its entirety;
2. The objection to the R&R [ECF No. 42] is overruled; and

3. The motions to suppress evidence and statement [ECF Nos. 23, 24] are denied.

Dated: October 2, 2024

s/David S. Doty  
David S. Doty, Judge  
United States District Court